

United States District Court

DISTRICT OF DELAWARE

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

CASE NUMBER: 05-141M-MPT

ANDRES ABARCA-SOLIS

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about December 22, 2005, in New Castle County, in the District of Delaware, defendant

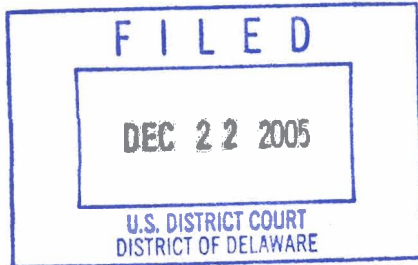
was found in the United States and the defendant was knowingly in the United States, after being deported, and after previously being convicted of an aggravated felony, and prior to the defendant's re-embarkation at a place outside the United States, neither the Attorney General of the United States nor the Undersecretary for Border and Transportation Security, Department of Homeland Security, had expressly consented to the defendant's re-application for admission,

in violation of Title 8 United States Code, Section 1326(a) & (b)(2), and

I further state that I am a(n) Special Agent of the United States Department of Homeland Security, Bureau of Immigration & Customs Enforcement, and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT.

Continued on the attached sheet and made a part hereof: ☒ YES ☐ NO



re of Complainant
William O. Horn
Special Agent
Department of Homeland Security, Bureau of
Immigration & Customs Enforcement

Sworn to before me and subscribed in my presence,

December 22, 2005
Date

at Wilmington, Delaware
City and State

United States District Court Magistrate Judge
District of Delaware
Name & Title of Judicial Officer

Signature of Judicial Officer

AFFIDAVIT

I, William O. Horn, being duly sworn, depose and say:

1. I am a Special Agent with the United States Department of Homeland Security, Bureau of Immigration & Customs Enforcement (ICE), Dover, Delaware. I have been employed as a Supervisory Special Agent since October 1, 1997, when I was employed by the Immigration and Naturalization Service (INS). The INS was transferred to the U.S. Department of Homeland Security as the Bureau of Immigration & Customs Enforcement in March 2003.

2. This investigation is based on information provided by State of Delaware government agencies, INS/ICE records, and my own observations and interviews.

3. On or about December 20, 2005, ICE Dover received notification from a State of Delaware government agency advising that Andrés ABARCA-Solís, [REDACTED], 1973, was being released from incarceration at the Delaware Correctional Center (DCC), Smyrna, DE, within the jurisdiction of the District of Delaware. This release will take place on December 22, 2005.

4. Your affiant has reviewed the alien file, A92 657 908, and found that Andrés ABARCA-Solís, born on June 28, 1973, is a citizen of Mexico, by virtue of his birth in Acapulco, Guerrero, Mexico. He had been accorded the status of an alien lawfully admitted for permanent residence on November 04, 1989.

5. In the alien file is a copy of a conviction record relating to Andrés ABARCA-Solís, showing that, on July 30, 1996, he pled guilty to Forgery Second Degree in the Superior Court of Delaware in and for Sussex County, and was sentenced to two years' incarceration. Forgery Second Degree, with a sentence of one year or more, constitutes an Aggravated Felony, as defined in 8 USC 1101(a)(43)(R). The file also contains a certified copy of a Judgment Order from the United States District Court, District of Delaware, showing that ABARCA pled guilty to Possession of Cocaine Base and Illegal Entry into the United States and was sentenced to 18 months' incarceration and one year of Supervised Release. In addition, he has been convicted in the states of California and Delaware on numerous other criminal charges, including Theft of Vehicle, Burglary, Forgery and Attempted Unlawful Sexual Contact.

6. Your affiant also found two Forms I-205, which showed that ABARCA-Solís was removed from the United States to Mexico as an Aggravated Felon on January 08, 1998 and on January 26, 2000, both times from Laredo, TX.

7. Your affiant found that ABARCA had filed an Application for Advance Permission to Reapply for Admission to the United States after having been removed, in 2001. That application was never approved prior to his reentering the United States following his removal. That application was denied on December 21, 2005.

WHEREFORE, your affiant avers that there is probable cause to believe that Andrés ABARCA-Solís, a citizen and national of Mexico, was removed by INS/ICE to Mexico on January 08, 1998 and on January 26, 2000, that he has been convicted of an Aggravated Felony, and that, prior to

his reembarkation at a place outside the United States, neither the United States Attorney General nor the Undersecretary for Border and Transportation Security, Department of Homeland Security, had expressly consented to such alien's reapplying for admission, in violation of Title 8, United States Code, 1326(a) and (b)(2).



William O. Horn
Special Agent
U.S. Immigration & Customs Enforcement